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Corporate Intellectual Property
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In re Application of :
HIRSCH, et al. :
Application No.: 10/550,357 :
PCT No.: PCT/EP04/03513 :
Int. Filing Date: 02 April 2004 :
Priority Date: 04 April 2003 :
Attorney Docket No.: PD/4-32804A :
For: PHARMACEUTICAL COMPOSITION :
COMPRISING AN :
IMMUNOSUPPRESSANT FOR USE IN :
THE TREATMENT OF SKIN DISEASES :

DECISION ON PAPERS

UNDER 37 CFR 1.42

This application is in response to applicant's "RESPONSE TO NOTICE TO FILE MISSING PARTS" filed 23 February 2007. The filed combined declaration and power of attorney is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 02 April 2004, applicant filed international application PCT/EP04/03513, which claimed priority to an earlier application filed 04 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 October 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 October 2006.

On 23 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement and a preliminary amendment.

On 23 October 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 23 February 2007, applicant filed the present response accompanied by a petition for a two-month extension of time. With the payment of the appropriate extension of time fee, the present response is considered timely filed.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.”

The declaration submitted on 23 February 2007 is executed by Stefanie Weiss as legal representative of the estate of deceased inventor, Carl-Martin Weiss. The declaration provides the citizenship for both the deceased inventor and the signing legal representative per 37 CFR 1.497(a)(3). As such, it is proper to grant applicant's request for status pursuant to 37 CFR 1.42.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 28 April 2005 and will be given a date of **23 February 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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